

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

WAYNE MCELWAIN,)	
)	
Petitioner,)	
)	
v.)	Case No. CIV-20-01292-PRW
)	
SHERIFF, et al.,)	
)	
Respondents.)	

ORDER

On February 17, 2021, United States Magistrate Judge Shon T. Erwin issued a Report and Recommendation (Dkt. 5) in this action, recommending that Petitioner's Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241 (Dkt. 1) be dismissed without prejudice for failure to pay the filing fee or, in the alternative, to obtain leave to proceed without prepayment of fees.

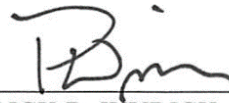
Petitioner was advised that he had a right to object to the Report and Recommendation by March 8, 2021, in accordance with 28 U.S.C. § 636 and Federal Rule of Civil Procedure 72, and that failure to make a timely objection would waive any right to appellate review of the factual and legal issues addressed in the Report and Recommendation (Dkt. 5). No objections have been filed as of this date. Having failed to

object, Petitioner has accordingly waived his right to appellate review of the factual and legal issues addressed in the Report and Recommendation (Dkt. 5).¹

Upon review of the Report and Recommendation (Dkt. 5), the Court:

- (1) **ADOPTS** in full the Report and Recommendation (Dkt. 5) issued by the Magistrate Judge on February 17, 2021; and
- (2) **DISMISSES WITHOUT PREJUDICE** Petitioner's Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241 (Dkt. 1).

IT IS SO ORDERED this 16th day of March 2021.



PATRICK R. WYRICK
UNITED STATES DISTRICT JUDGE

¹ *United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1059–60 (10th Cir. 1996); *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); *cf.* 28 U.S.C. § 636(b)(1) (requiring a district judge to “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made” but otherwise permitting a district judge to review the report and recommendations under any standard it deems appropriate).